

**77-27-5.5 Review procedure -- Commutation.**

- (1) The Board of Pardons and Parole may consider the commutation of a death sentence only to life without parole.
- (2) Only the person who has been sentenced to death or his counsel may petition the Board of Pardons and Parole for commutation.
- (3) The petition shall be in writing, signed personally by the person sentenced to death, and shall include a statement of the grounds upon which the petitioner seeks review.
- (4) The state shall be permitted to respond in writing to the petition as may be established by board rules.
- (5) The board shall review the petition and determine whether the petition presents a substantial issue which has not been reviewed in the judicial process.
- (6) The board shall not consider legal issues, including constitutional issues, which:
  - (a) have been reviewed previously by the courts;
  - (b) should have been raised during the judicial process; or
  - (c) if based on new information, are subject to judicial review.
- (7)
  - (a) If the board does not find a substantial issue, the board shall deny the hearing to the petitioner.
  - (b) If the board finds a substantial issue, the board shall conduct a hearing in which the petitioner and the state may present evidence and argument as may be provided by board rules.

Amended by Chapter 13, 1994 General Session